

STATEMENT OF EMERGENCY

CALIFORNIA CODE OF REGULATIONS TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

INFORMATIVE DIGEST

The Department of Conservation (Department) allows distributors to retain an administrative fee that is a certain percentage of the California Redemption Value (CRV) they must pay on beverage containers they sell in California. This administrative fee is to cover the cost of preparing documents required by the Department. The passage of AB 3056 (Chapter 907, Statutes of 2006) changed this fee from 1% of the total CRV paid to 1.5% of the total CRV paid. AB 3056 is an urgency bill and the increase in the administrative fee became effective on September 30, 2006. The emergency regulations proposed in this package would incorporate into regulations the conditions specified in statute.

FINDING OF NECESSITY

Public Resources Code (PRC) §14574, allows distributors of beverages in California to deduct a certain percentage of the CRV payment to cover administrative costs incurred when filling out documents required by the Department. The current regulations state that the distributor shall retain 1% of the total CRV paid to cover administrative costs. This is inconsistent with the provision of AB 3056 that increases the administrative fee to 1.5% of the total CRV paid. These regulations are necessary to conform to recent amendments to statute. This emergency regulatory package will amend current regulations to expressly authorize distributors to retain the amount shown in statute and remove the current reference of a 1% administrative fee. In addition, these emergency regulations will allow the Department to make necessary changes to the DR-3 reporting form used by distributors and the reference to the 1% administrative fee.

Subchapter 4. Distributors
Article 1. Distributor Requirements

§2305. RECORDKEEPING

Amended Subsection 2305 (c) has been amended to reflect the change in the revision date of the Distributor Report Form (DR-3). The prior revision to this form was made in January 2004. This amendment is necessary to reflect that the most recent amendment to this form was October 2006.

§2310. REPORTING

Amended Subsection 2310 (a)(1) has been amended to reflect the change in the revision date of the Distributor Report Form (DR-3). The prior revision to this form was made in January 2004. This amendment is necessary to reflect that the most recent amendment to this form was October 2006.

Amended Subsection 2310 (a)(2) has been amended to reflect the change in the revision date of the Distributor Report Form (DR-3). The prior revision to this form was made in January 2004. This amendment is necessary to reflect that the most recent amendment to this form was October 2006.

Amended Subsection 2310 (a)(2)(B) has been amended to reflect the change in the revision date of the Distributor Report Form (DR-3). The prior revision to this form was made in January 2004. This amendment is necessary to reflect that the most recent amendment to this form was October 2006.

§2320. PAYMENTS

Amended Subsection 2320 (a) has been amended to reflect the change in the administrative fee withheld by distributors of beverages in California. This change will remove the percent shown in the regulations and instead reference the amount to be withheld as shown in statute.

Deleted Subsection 2320(e) has been removed because the amount of the administrative fee is referenced in subsection 2320(a) and in statute.

Renumbered Subsections 2320(f) and (g) have been renumbered due to the deletion of old subsection 2320(e).

FINDING OF EMERGENCY

The Department determines that to effectively implement the amendments made by AB 3056 (Chapter 907, Statutes of 2006) to Public Resources Code (PRC) Section 14574, it is necessary to promulgate these regulations as emergency. Section 14574 was amended by AB 3056 to change the administrative fee from 1% to 1.5% of the total redemption payment made by the distributor. The bill was an urgency measure and became effective September 30, 2006. Express statutory authority has been established in PRC Section 14536(b)(1) for the Department to adopt emergency regulations for purposes of implementing Section 14574. This emergency regulation package is necessary to comply with the recent statutory changes made by AB 3056. These proposed regulations will provide information in regulations that comply with the requirements specified in statute.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under PRC Section 14530.5(b) and Section 14536(b).

REFERENCE

Revisions to California Code of Regulations Title 14, Division 2, Chapter 5, Section 2320 is intended to match Public Resources Code Section 14574.

LOCAL MANDATE

The proposed regulations do not impose a mandate on local agencies or school districts.

COSTS

No additional costs or savings are anticipated for the Department of Conservation, Division of Recycling in implementing this emergency regulation package. These emergency regulations would not place any additional requirements on recycling operations.

The proposed emergency regulations will not result in either cost or saving to any other State Agency, local agencies or school district. Further, these proposed emergency regulations will not result in any non-discretionary cost of savings to any local agencies, nor will they result in cost or savings to federal funding for the State.